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**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION**

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**R. ALEXANDER ACOSTA,  
SECRETARY OF LABOR,  
UNITED STATES DEPARTMENT  
OF LABOR,**

Plaintiff,

v.

**MARIN J. CORPORATION**

Defendant.

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**COMPLAINT**

**CIVIL ACTION No. 1:18-CV-184**

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**COMPLAINT**

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Plaintiff R. Alexander Acosta, Secretary of Labor, United States Department of Labor (the “Secretary”), brings this action pursuant to Rule 65 of the Federal Rules of Civil Procedure, as well as 8 U.S.C. § 1188(g)(2), 20 C.F.R. Part 655, Subpart B (the “H-2A Program”), and 29 C.F.R. § 501.16(b) and (c), to prevent Defendant Marin J. Corporation (“Defendant” or “Marin J. Corp.”) from violating its obligations under the H-2A Program with regard to its employment of non-immigrant temporary agricultural workers.

**INTRODUCTION**

1. An investigation conducted by the Wage and Hour Division of the United States Department of Labor (“WHD”) observed unsanitary work environments, inhumane and unhealthy housing conditions, and significant federal regulatory wage violations related to Defendant Marin J. Corp.’s use of the H-2A Program. The Secretary is charged with enforcing the H-2A Regulations

to ensure the rights of the non-immigrant temporary agricultural workers are not violated and prevent agricultural employers from exploiting their domestic and foreign workforces.

2. Accordingly, the Secretary seeks to enjoin Defendant Marin J. Corp. from subjecting H-2A workers to inhumane and unhealthy housing conditions in violation of 8 U.S.C. § 1188(c)(4), 20 C.F.R. § 655.122(d), and 29 C.F.R. § 1910.142, exposing H-2A workers to unsanitary work environments in violation of 29 C.F.R. § 1928.110, from failing to maintain records as required by 20 C.F.R. § 655.122(j), and from failing to pay the required wage rate in accordance with 20 C.F.R. § 655.120(a).

### **THE PARTIES**

3. Plaintiff R. Alexander Acosta is the Secretary of Labor, United States Department of Labor.

4. Defendant Marin J. Corporation is a Florida corporation, with its principal place of business located in Avon Park, Florida, engaged in the interstate transportation of goods, including watermelons, cantaloupes, and pumpkins. At all material times, Marin J. Corp. has been an “employer” within the meaning of 8 U.S.C. § 1188 and the implementing regulations at 20 C.F.R. § 655.103.

### **JURISDICTION**

5. This Court has subject matter jurisdiction under 8 U.S.C. 1188(g)(2) and 29. C.F.R. § 501.16(b), as well as federal question jurisdiction under 28 U.S.C. § 1331,

**VENUE**

6. Venue is proper under 28 U.S.C. § 1391 and Local Rule 3-2.07(b)(3) of the Local Rules of the Eastern District of Missouri because although Defendant Marin J. Corp. is not a resident of the Eastern District of Missouri, and the actions giving rise to this Complaint took place in and around Kennett, Missouri within the jurisdiction of this Court.

**FACTS RELEVANT TO INJUNCTIVE RELIEF**  
**(Defendant Marin J. Corp. Violated Its Obligation as an H-2A Agricultural Employer)**

7. Beginning on or about June 28, 2018, Defendant Marin J. Corp. violated its obligations under 8 U.S.C. § 1188(c)(4), 20 C.F.R. § 655.122(d), and 29 C.F.R. § 1910.142 to provide its H-2A workers with appropriate housing, at no cost to the H-2A workers, when it required its H-2A workers to live and sleep in overcrowded hotel rooms, with four (4) to six (6) workers per room; two unsafe, deteriorating, and unsanitary residences, with less than 50 ft<sup>2</sup> of space per worker and without 36" of space between beds; and, finally, in an unsuitable and substandard former county jail, with inoperable kitchen facilities and limited external light.

8. Beginning or about June 28, 2018, Defendant Marin J. Corp. violated its obligations under 29 C.F.R. § 1928.110 to provide their H-2A workers with safe and sanitary work environments, when it deprived them of consistent and adequate access to mobile sanitation units, handwashing stations, and drinking water, resulting in dehydration, poor hygiene, and exposure to potential adverse health consequences.

9. Beginning or about June 28, 2018, Defendant Marin J. Corp. violated its obligations under 20 C.F.R. §§ 655.122(j) and (k) and 655.167 to keep accurate records of the H-2A workers' hours worked, earnings, and deductions, as well as furnish such information to the H-2A workers through both pay statements and earnings records. Defendant Marin J. Corp. failed to keep any records of the days or hours worked by its H-2A workers, failed to maintain records of H-2A

worker earnings, failed to maintain records of start/stop times for its H-2A workers, and failed to provide its H-2A workers with any payment statements or earnings records.

10. Beginning on or about June 28, 2018, Defendant Marin J. Corp. violated its obligations under 20 C.F.R. § 655.122(l) to pay its H-2A workers the applicable adverse effect wage rate (“AEWR”) of \$10.95, or the rate of \$13.42 per hour listed in its Temporary Employment Certifications, and has instead, at all material times, only paid its H-2A workers a single paycheck covering only three (3) days of work.

11. On information and belief, some or all of the H-2A workers have not received wages that equal or exceed the amount they are owed under the governing hourly rate because they were not paid the proper wage rate, or they simply have not been paid for all hours worked.

**PRAYER FOR RELIEF**

WHEREFORE, cause having been shown under 8 U.S.C. § 1188(g)(2), 20 C.F.R. Part 655, Subpart B, and 29 C.F.R. § 501.16(b) and (c), Plaintiff Secretary prays for a judgment in favor of the Secretary and against Defendant Marin J. Corporation in an Order as follows:

- a. Permanently enjoining and restraining Defendant Marin J. Corporation, its officers, agents, servants, and employees, and those persons in active concert or participation with it, from prospectively violating the provisions of 8 U.S.C. § 1182(a) and (c)(4), and the implementing regulations at 20 C.F.R. Part 655;
- b. Recovering the wages due to the H-2A workers who were not paid in accordance with the 20 C.F.R. § Part 655, Subpart B;
- c. Awarding the Secretary the costs of this action; and
- d. Providing such other and further relief as this Court deems just and proper.

Respectfully submitted,

**CHRISTINE Z. HERI**

Regional Solicitor

**H. ALICE JACKS**

Associate Regional Solicitor

**BOYCE N. RICHARDSON**

Trial Attorney

/s/ Charles W. Gordon

**CHARLES W. GORDON**

Trial Attorney

OFFICE OF THE SOLICITOR

U.S. DEPARTMENT OF LABOR

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*Attorneys for Secretary of Labor*

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

U.S. Department of Labor, R. Alexander Acosta, Secretary of Labor

## DEFENDANTS

Marin J. Corporation

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Highlands Co., Florida

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☒ 1 U.S. Government Plaintiff☐ 3 Federal Question (U.S. Government Not a Party)☐ 2 U.S. Government Defendant☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT   |  | TORTS   |  | FORFEITURE/PENALTY                                 | BANKRUPTCY  | OTHER STATUTES |
|--|--|---|--|--|---|----------------|
| <input type="checkbox"/> 110 Insurance   | <input type="checkbox"/> 310 Airplane                              | <input type="checkbox"/> 365 Personal Injury - Product Liability                          | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <input type="checkbox"/> 422 Appeal 28 USC 158     | <input type="checkbox"/> 375 False Claims Act   |                |
| <input type="checkbox"/> 120 Marine  | <input type="checkbox"/> 315 Airplane Product Liability            | <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability | <input type="checkbox"/> 690 Other                                       | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))   |                |
| <input type="checkbox"/> 130 Miller Act  | <input type="checkbox"/> 320 Assault, Libel & Slander              | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability                   |  |  | <input type="checkbox"/> 400 State Reapportionment  |                |
| <input type="checkbox"/> 140 Negotiable Instrument                                   | <input type="checkbox"/> 330 Federal Employers' Liability          |   |  |  | <input type="checkbox"/> 410 Antitrust  |                |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment       | <input type="checkbox"/> 340 Marine                                |   |  |  | <input type="checkbox"/> 430 Banks and Banking  |                |
| <input type="checkbox"/> 151 Medicare Act  | <input type="checkbox"/> 345 Marine Product Liability              |   |  |  | <input type="checkbox"/> 450 Commerce   |                |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) | <input type="checkbox"/> 350 Motor Vehicle                         |   |  |  | <input type="checkbox"/> 460 Deportation  |                |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits           | <input type="checkbox"/> 355 Motor Vehicle Product Liability       |   |  |  | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations                   |                |
| <input type="checkbox"/> 160 Stockholders' Suits                                     | <input type="checkbox"/> 360 Other Personal Injury                 |   |  |  | <input type="checkbox"/> 480 Consumer Credit  |                |
| <input type="checkbox"/> 190 Other Contract  | <input type="checkbox"/> 362 Personal Injury - Medical Malpractice |   |  |  | <input type="checkbox"/> 490 Cable/Sat TV   |                |
| <input type="checkbox"/> 195 Contract Product Liability                              |  |   |  |  | <input type="checkbox"/> 850 Securities/Commodities/Exchange                                  |                |
| <input type="checkbox"/> 196 Franchise   |  |   |  |  | <input type="checkbox"/> 890 Other Statutory Actions  |                |
|  |  |   |  |  | <input type="checkbox"/> 891 Agricultural Acts  |                |
|  |  |   |  |  | <input type="checkbox"/> 893 Environmental Matters  |                |
|  |  |   |  |  | <input type="checkbox"/> 895 Freedom of Information Act                                       |                |
|  |  |   |  |  | <input type="checkbox"/> 896 Arbitration  |                |
|  |  |   |  |  | <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision |                |
|  |  |   |  |  | <input type="checkbox"/> 950 Constitutionality of State Statutes                              |                |

## V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

8 U.S.C. § 1188(g)(2)

Brief description of cause:

Plaintiff seeks to enjoin Defendants from H-2A program violations

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint.

JURY DEMAND: ☐ Yes ☒ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 07/26/2018 SIGNATURE OF ATTORNEY OF RECORD

Charles W. Gordon

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG JUDGE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI

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| Plaintiff, | ) |          |
|            | ) |          |
| v.         | ) | Case No. |
|            | ) |          |
| ,          | ) |          |
|            | ) |          |
| Defendant, | ) |          |
|            | ) |          |

**ORIGINAL FILING FORM**

**THIS FORM MUST BE COMPLETED AND VERIFIED BY THE FILING PARTY  
WHEN INITIATING A NEW CASE.**

☐ THIS SAME CAUSE, OR A SUBSTANTIALLY EQUIVALENT COMPLAINT, WAS  
PREVIOUSLY FILED IN THIS COURT AS CASE NUMBER \_\_\_\_\_  
AND ASSIGNED TO THE HONORABLE JUDGE \_\_\_\_\_.

☐ THIS CAUSE IS RELATED, BUT IS NOT SUBSTANTIALLY EQUIVALENT TO ANY  
PREVIOUSLY FILED COMPLAINT. THE RELATED CASE NUMBER IS \_\_\_\_\_ AND  
THAT CASE WAS ASSIGNED TO THE HONORABLE \_\_\_\_\_. THIS CASE MAY,  
THEREFORE, BE OPENED AS AN ORIGINAL PROCEEDING.

☐ NEITHER THIS SAME CAUSE, NOR A SUBSTANTIALLY EQUIVALENT  
COMPLAINT, HAS BEEN PREVIOUSLY FILED IN THIS COURT, AND THEREFORE  
MAY BE OPENED AS AN ORIGINAL PROCEEDING.

**The undersigned affirms that the information provided above is true and correct.**

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Filing Party

UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff*

v.

\_\_\_\_\_  
*Defendant*

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Civil Action No. \_\_\_\_\_

**NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS**

To: \_\_\_\_\_  
(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

**Why are you getting this?**

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within \_\_\_\_\_ days (give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

**What happens next?**

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of the attorney or unrepresented party*

\_\_\_\_\_  
*Printed name*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*E-mail address*

\_\_\_\_\_  
*Telephone number*



# UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff*

v.

\_\_\_\_\_  
*Defendant*

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Civil Action No. \_\_\_\_\_

## WAIVER OF THE SERVICE OF SUMMONS

To: \_\_\_\_\_  
*(Name of the plaintiff's attorney or unrepresented plaintiff)*

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from \_\_\_\_\_, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of the attorney or unrepresented party*

\_\_\_\_\_  
*Printed name of party waiving service of summons*

\_\_\_\_\_  
*Printed name*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*E-mail address*

\_\_\_\_\_  
*Telephone number*

## Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.